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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,417	06/05/2006	Fabien Lanteires	LAV05006	5451
29980	7590	05/30/2008	EXAMINER	
NICOLAS E. SECKEL			CHANG, CHING	
Patent Attorney			ART UNIT	PAPER NUMBER
1250 Connecticut Avenue, NW Suite 700				3748
WASHINGTON, DC 20036			MAIL DATE	DELIVERY MODE
			05/30/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,417	<b>Applicant(s)</b> LANTEIRES, FABIEN
	<b>Examiner</b> CHING CHANG	<b>Art Unit</b> 3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 14 March 2008.

2a) This action is FINAL.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1,2 and 5-22 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 21 and 22 is/are allowed.

6) Claim(s) 1,2,9-13,15,19 and 20 is/are rejected.

7) Claim(s) 5-8,14 and 16-18 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

### **DETAILED ACTION**

This office Action is in response to the amendment filed on 3/14/08. Claims 3-4 are cancelled, and new claims 21-22 are added as requested.

#### ***Oath/Declaration***

1. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

It does not identify the citizenship of each inventor properly. Since 37 CFR 1.63 requires Oath or Declaration to identify the country of citizenship of each inventor, accordingly, an appropriate corrected Oath or Declaration is required.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 9-13, 15, and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as being obvious over Sickler (US Patent 4,572,114).

Sickler discloses a method for controlling the operation of a cylinder (3) of an internal-combustion engine, the cylinder being provided with a combustion chamber (11) which can be opened or closed at the intake and opened or closed at the exhaust, and at least one fuel injector, in which method (See Col. 2, line 66 through Col. 5, line 52), during the same operating cycle of the cylinder, the following phases are carried out: an opening phase at the exhaust between an exhaust opening time and an exhaust closing time; a first opening phase at the intake between a first intake opening time after the exhaust opening time and a first intake closing time; a second opening phase at the intake between a second intake opening time and a second intake closing time; a fuel injection phase between an injection start time and an injection end time; and a combustion phase for the air/fuel mixture contained in the chamber, wherein the exhaust closing time is between the first intake opening time and the second intake opening time; wherein the first intake closing time precedes the second intake opening time; wherein the first intake closing time is after the exhaust closing time; wherein the phases are carried out during each operating cycle of the cylinder; an internal-combustion engine having at least one cylinder which is provided with a combustion chamber which can be opened or closed at the intake and opened or closed at the exhaust, and at least one fuel injector, wherein the cylinder operates in accordance with a method according to claim 1; a motor vehicle comprising an internal-combustion

engine according to claim 11; wherein the first intake closing time precedes the second intake opening time; wherein the amplitude of the opening at the intake is adjusted so that the amplitude of the opening during the first opening phase at the intake is different from the amplitude of the opening during the second opening phase at the intake.

***Allowable Subject Matter***

5. Claims 21-22 are allowed.
6. Claims 5-8, 14, and 16-18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

7. Applicant's arguments filed on 3/14/08 have been fully considered but they are not persuasive.

More specifically, regarding the Attorney's contention, " Sickler focuses on the so-called retarded mode in which a compression release event is produced only once during two revolutions of the crankshaft, which basically converts the combustion engine into an air compressor (see Sickler at col. 1, lines 23-25). During this stage, the fuel injection is totally or nearly totally shut off (see Sickler at col. 4, lines 15-17), and in any case, there is no combustion phase, because combustion would be contrary to the objective of increasing the compression effect. In other words, Sickler does not include a combustion phase for the air/fuel mixture contained in the chamber, as recited in present claim 1. "(See page 10, Attorney's Remarks), the Examiner disagrees. As a matter of fact, Sickler reference does disclose " However, in each instance the engine

continues to operate in the standard four-stroke cycle mode so as to produce one compression release event per cylinder for every two crankshaft revolutions. " (See Col. 2, lines 23-27), and " During the retarding mode of operation, the fuel supply is shut off or reduced so that little or no fuel is injected into the engine cylinder. " (See Col. 4, lines 15-17), accordingly, the Examiner deems that the Sickler method would include a combustion phase for the air/fuel mixture contained in the chamber, as recited in present claim 1, during an operating cycle which include a retarding event, in order to continuously support a proper engine operation.

Furthermore, regarding the Attorney's argument, " The term "French" is the adjective form that unequivocally means "of France". Thus, the words "French citizenship" mean "citizenship of France" without any ambiguity, " (See Page 8, Attorney's Remarks), the Examiner disagrees. As a matter of fact, " French " does not necessary mean " of France ", in addition, the words "French citizen" has not been recorded in a filed Declaration for this instant application. However, the Examiner does agree with the Attorney's comment, " that "[t]he applicant.., shall state of what country he is a citizen" (35 U.S.C. 115) and that "[a]n oath or declaration.., must... [i]dentify the country of citizenship of each inventor" (37 C.F.R. 163(a)(3)) as discussed in the USPTO guidelines (MPEP 602). " (See Page 8, Attorney's Remarks).

### ***Conclusion***

**8. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHING CHANG whose telephone number is (571)272-4857. The examiner can normally be reached on M-Th, 7:00 AM -5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571)272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ching Chang/  
Primary Examiner, Art Unit 3748